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KENNETH FINEMAN; ROGER KATEN; GEORGE BUYANOVSKY;
IGOR OKULIST; and JOSEF GOREK

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

TERARECON, INC.,

Plaintiff,

vs.

FOVIA, INC.; FOVIA MEDICAL, INC.;
KENNETH FINEMAN; ROGER KATEN;
GEORGE BUYANOVSKY; IGOR
OKULIST; and JOSEF GOREK,

Defendants.

AND RELATED COUNTERCLAIM.

Case No. C 05-04407 (CW)

E-FILING

STIPULATION AND JOINT
REQUEST AND ORDER
REGARDING EXTENSION OF
PRETRIAL AND TRIAL DATES
AS MODIFIED

Judge: The Honorable Claudia Wilken

Trial Date: April 23, 2007

1 WHEREAS, on May 24, 2006, a protective order was entered in this action which
2 governs the exchange of Confidential and Highly Confidential Information.

3 WHEREAS the parties exchanged formal discovery demands on June 2 and June 6,
4 2006.

5 WHEREAS on April 10, 2006, plaintiff TeraRecon, Inc. filed a motion to dismiss
6 certain of the counterclaims filed by defendants and counterclaimants Fovia, Inc., Fovia,
7 Medical, Inc. and George Buyanovsky, which motion was granted with leave to amend on
8 July 6, 2006; counter-claimants filed Second Amended Counterclaims on July 20, 2006,
9 and plaintiff TeraRecon, Inc. moved to dismiss certain of the claims of the Second
10 Amended Counterclaim on August 7, 2006, which motion is set for hearing September 22,
11 2006. Consequently, the scope of the pleadings in this action has not finally been
12 determined.

13 WHEREAS on June 8, 2006, the parties appeared for mediation before Philip
14 Gregory, Esq.

15 WHEREAS at the mediation, it appeared that the prospects for fruitful settlement
16 discussions or further mediation would be enhanced substantially if the parties first were to
17 identify and exchange evidence that would assist each side in better evaluating the claims
18 asserted in this litigation.

19 WHEREAS further telephonic conferences with the mediator were held on June 16
20 and June 27, 2006 in which details of a proposed procedure and the evidence to be
21 exchanged were discussed.

22 WHEREAS the parties engaged in a further, lengthy settlement meeting on August
23 22, 2006, at which the parties agreed to an exchange of evidence that they believe may
24 facilitate settlement of the action, in anticipation of a further settlement meeting,
25 conditional upon the Court's agreeing to continue the discovery, pretrial and trial dates in
26 this action, as requested herein.

27 WHEREAS the parties believe that, after the agreed evidence has been exchanged
28 and the parties have had a chance to evaluate that evidence, further settlement discussions

1 may be productive, either through direct discussions between the parties or through further
2 mediation, and obviate the need for formal discovery or further proceedings in this case.

3 WHEREAS a continuance of the pretrial and trial dates are necessary to allow the
4 parties to engage in the settlement process without having simultaneously to engage in
5 extensive formal discovery, that otherwise would be necessary in light of the existing
6 October 13, 2006 cutoff for fact discovery

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1 ACCORDINGLY, THE PARTIES HEREBY REQUEST AND STIPULATE
 2 THROUGH THEIR ATTORNEYS OF RECORD AS FOLLOWS:

3 1. That the pretrial and trial dates established in the Minute Order and Case
 4 Management Order filed March 9, 2006 be vacated. The following dates, or such later
 5 dates as may be convenient for the Court, are proposed:

7 Event	Existing Date	Proposed New Date
8 Date of next case management 9 conference:	February 16, 2007	April 20, 2007
10 Completion of fact discovery:	October 13, 2006	December 13, 2006
11 Disclosure of identity and reports 12 of expert witnesses:	November 6, 2006	January 22, 2007
13 Exchange of rebuttal expert 14 reports:	November 21, 2006	February 5, 2007
15 Completion of expert discovery:	December 20, 2006	February 20, 2007
16 All case-dispositive motions to be 17 heard at 10:00 a.m. on or before:	February 16, 2007	April 20, 2007
18 Final pretrial conference at 1:30 19 p.m. on:	April 13, 2007	May 18, 2007
20 An 8 day jury trial will begin at 21 8:30 a.m. on:	April 23, 2007	June 25, 2007

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Deadlines set in reference to the current date for hearing on dispositive motions shall be deemed to refer to the continued hearing date for such motions.

Dated: August __, 2006.

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KATEN; GEORGE BUYANOVSKY;
IGOR OKULIST; and JOSEF GOREK

Pursuant to General Order No. 45(X)(B), I hereby attest that concurrence in the filing of this document has been obtained from counsel for Defendants FOVIA, INC.; FOVIA MEDICAL, INC.; KENNETH FINEMAN; ROGER KATEN; GEORGE BUYANOVSKY; IGOR OKULIST; and JOSEF GOREK.

By /s/ Sharon L. O'Grady
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TERARECON, INC., and Counter-defendants
MOTOAKI SAITO, M.D., and ROBERT TAYLOR,
Ph.D.

ORDER

PURSUANT TO STIPULATION, AND GOOD CAUSE APPEARING, IT IS SO ORDERED.

The existing deadlines and dates for the following matters are vacated and the deadlines and dates set forth below are hereby established:

Date of next case management conference: April 20, 2007

Completion of fact discovery: December 13, 2006

Disclosure of identity and reports of expert witnesses: January 22, 2007

Exchange of rebuttal expert reports: February 5, 2007

Completion of expert discovery: February 20, 2007

All case-dispositive motions to be heard at 10:00 a.m. on or before: April 20, 2007

Final pretrial conference at 1:30 p.m. on: July 27, 2007

An 8 day jury trial will begin at 8:30 a.m. on: August 6, 2007

/s/ CLAUDIA WILKEN

Dated: September 5, 2006

The Honorable Claudia Wilken
United States District Judge